



City of Seattle – 2011 Fair Housing Testing

April 25, 2012

Summary

When the federal Fair Housing Act became the law of the land in 1968, housing discrimination was blatant and often intentional. More than forty years later, fair housing testing conducted by the Seattle Office for Civil Rights (SOCR) demonstrates that housing discrimination is still a reality for residents of Seattle, Washington.

On October 24, 2011, SOCR released the results of fair housing testing that it had conducted between January and June 2011. SOCR conducted a total of 56 tests, including nine re-tests, of 47 properties. Overall, 55% of the properties tested showed evidence of illegal discrimination. In the tests for race-based discrimination, 69% showed patterns of inconsistencies that generally favored white testers. In the tests for disability-based discrimination, 38% showed patterns of inconsistencies that create barriers for people with disabilities.

In response to the results, SOCR filed director's charges of illegal discrimination against six property owners based on practices revealed by the testing. To date, five of the six property owners had settled the charges. (The sixth case is still under investigation.) SOCR contacted all property owners to inform them of their results. SOCR offered to meet with managers whose test results showed some evidence of discrimination to evaluate their rental process and to provide fair housing resources to help them to improve their policies and procedures. In addition to providing free fair housing training to area landlords, SOCR also has worked with the Rental Housing Association of Puget Sound to educate property managers about fair housing.

What is fair housing testing?

Fair housing tests are a tool often used by communities to learn more about illegal housing discrimination. Paired testers pose as prospective renters to measure differences in the services they receive from leasing agents, as well as the information they receive about vacancies, rental rates, terms and other conditions. Matched pairs of testers in these cases have similar rental profiles in every respect, except for their race or disability.

Testers are hired and trained by the testing agency. Individuals who serve as testers cannot have connections to the real estate industry. Testers are given a Renter Profile that specifies the type of housing they're looking for, as well as details of their income, work and family circumstances, etc. Testers then present themselves to the rental managers at the selected sites and ask about housing. They record their testing experiences in detail on a standardized form. Following the tests, the testing coordinator debriefs each tester about the details of the site visit.

American courts have consistently determined that testing is a legitimate and lawful activity, and that fair housing enforcement agencies may conduct testing. The Seattle Office for Civil Rights is a department of the City of Seattle, responsible for enforcing the City's anti-discrimination laws within Seattle city limits. Seattle Municipal Code (Chapter 14.08) authorizes SOCR to enforce the City's fair housing laws. SOCR also contracts with the U.S. Department of Housing and Urban Development (HUD) to enforce federal fair housing laws within Seattle.

Sometimes critics have characterized fair housing testing as a form of entrapment. Courts have confirmed that testing is not entrapment. Entrapment means to entice or persuade someone to do something illegal which they might not otherwise do. Fair housing testing looks at residential property managers' everyday procedures to determine their normal, routine business practices.

Fair housing testing helps a community to develop a broader assessment of the community's current fair housing conditions, and to take steps to create more fairness in the rental market. Most fair housing enforcement is complaint-driven – that is, a fair housing enforcement agency like the Seattle Office for Civil Rights conducts an investigation only after someone files a charge alleging discrimination against a specific housing provider. Testing offers a snapshot of local housing providers' day-to-day policies and practices.

Practices such as being quoted a higher rent because of your race is no small thing; nor is being turned away from an apartment because you use a service animal. Test results demonstrate patterns of behavior that have profound impacts on people's lives. Equitable housing opportunities are critical for Seattle's residents to thrive.

SOCR's test program: January to July, 2011

SOCR contracted with the Fair Housing Center of Washington (FHCW), an independent non-profit organization, to conduct the tests. The tests occurred between January and mid-July, 2011. FHCW made a random selection of properties with vacancies from zip codes within Seattle city boundaries. The Seattle Office for Civil Rights included two properties based on our office's prior case experience.

SOCR chose to test for race and disability, since those protected groups are the two most frequently cited in fair housing charges filed with the department. Twenty-six tests focused on race, using African American and white testers. The other 21 tests focused on disability access for people who use a wheelchair or service animal. Race-based tests were conducted in-person by pairs of black and white testers. FHCW would conduct a phone call to see if units were available; then both testers would visit the test site with instructions and informational scripts. The paired visits would occur within a few hours of one another to ensure similar circumstances to the extent possible. Disability-based tests were mostly conducted over the telephone.

After FHCW received individual test results, the organization's testing coordinator analyzed the results and sent them to SOCR. We carefully reviewed all the detailed test reports to verify the results and identify the need for re-tests in situations that showed initial evidence of

discriminatory practices. SOCR made the final decision to file charges based on clear patterns of inconsistencies revealed by the test results.

Test results

Overall, 55% of the properties tested showed evidence of different treatment.

- 69% of properties tested for race-based discrimination showed patterns of inconsistencies that generally favored white testers.
- 38% of properties tested for disability-based discrimination showed patterns of inconsistencies that create barriers for people with disabilities.
- 45% of all properties tested showed no evidence of discrimination.

Race-based tests: below are some examples of inconsistencies divided into several categories.

Difference in rental amount:

- Both testers were told about a 1-bedroom unit. The white tester was told the rent was \$1,100 per month; the black tester was quoted a range of rent from \$1,225 per month to \$1,500 per month.
- The black tester was told about two 1-bedroom units; the white tester was told about three 1-bedroom units. The black tester was quoted rental rates of \$879 and \$929 per month for the units; the white tester was quoted rental rates of \$800, \$879, and \$879 per month for the units.

Difference in information regarding the availability of units:

- Both testers visited an apartment building and asked about available studios or 1-bedroom units. The black tester was told that a 1-bedroom would be available immediately while the white tester was told that a studio would be available later in the week.
- Both testers were shown the same 1-bedroom unit. While the black tester was told that an application was pending, the white tester was told the unit was available immediately.

Difference in lease terms:

- The black tester was told that 12-month leases were available; the white tester was told that 3 to 12 month leases were available.
- The black tester was told that 7, 12, and 13 month leases were available; the white tester was told that 1 to 13 month leases were available.

Difference in security deposit amount or terms:

- The black tester was informed that the deposit was \$600 and could increase depending on the credit check; the white tester was informed that the deposit was \$350 refundable and \$250 non-refundable.
- The black tester was told that the deposit was \$500. The white tester was told that the deposit was \$500, but also was told that only \$300 was due upfront and the remaining \$200 would be due at the time of move-in.

Difference in move-in specials offered:

- The white tester was told that the move-in special waived the \$150 non-refundable deposit and the \$42 application fee. The black tester did not receive that information.
- The white tester was told that a move-in special included reduced rent on a 1-bedroom/1-bath penthouse that would be available immediately for \$1,200 per month, and that an application signed before the end of February would waive the application fee. The black tester did not receive any information about a move-in special.

Difference in screening information:

- The black tester was told that the application fee was \$38 and included a credit check and criminal history check. The white tester was told that the application fee was \$38, that it would take about ten minutes and they would work with things that come up on credit.
- The black tester was told that the application fee was \$21 per person and included a credit check and criminal history check. The white tester was told that the application fee was \$21 per adult – nothing was mentioned about a credit check and criminal history check.

Disability-based tests: below are some individual examples of inconsistencies divided into several categories.

Service Animals

- The disabled tester told the agent she had a disability and used a therapy dog. The agent told the tester they do not allow dogs. The tester asked if she could get a reasonable accommodation since the dog was for a disability. After asking the tester what her disability was, the agent told the tester she would need the approval of her boss. Ultimately, the protected tester was told that the therapy dog would not be allowed.
- The disabled tester told the agent that she used a service dog and asked about the requirements. The agent explained that the tester would have to pay a \$500 deposit plus a \$25/month pet fee. The tester asked for a reasonable accommodation because she had a disability that required a service dog. The agent stated she would have to get back to the tester. The tester did not receive a call back from the agent at the time the analysis was conducted.

Steering

- After learning that the tester was disabled, an agent informed the tester that there was a 1-bedroom unit available. The agent asked if she was in a wheelchair and the tester said no. The tester was told that the 1-bedroom unit is larger, has grab bars in the tub, and is cute with a courtyard view, and that the unit was currently vacant.
- The disabled tester was told that the apartments were built on a steep hill and that there were a lot of steps on the grounds that would make it difficult to get around in a wheelchair. The tester also was told that an available unit in the lower building might work.

Accessibility

- While viewing a unit, the disabled tester was told that the buildings were built in the 1960s before there were ADA requirements. The units were not wheelchair accessible, nor were the doors wide enough to accommodate a wheelchair. The tester was told that a man had looked at the apartments once and could not get his wheelchair through the door. The

disabled tester was shown the bathroom; the agent stated that he didn't think she could get through the doorway, and told her to "try it."

Parking

- The disabled tester asked if she could have a reserved parking spot closest to the elevator. The manager asked if the tester had a handicapped sticker and stated there are eight handicapped spots closest to the elevator that can be used because no other renters are using those spots. The tester asked if she could have one of those spots reserved specifically for her use. The manager stated that she would have to ask the regional manager and asked the tester to call back the next day. The tester did not receive a response.

Immediate actions taken in response to test results

SOCR divided the test results of properties into three categories:

- **Positive:** Six properties' test results showed clear evidence of discrimination. SOCR filed director's charges alleging illegal discrimination against six properties based on their test results – three on the basis of race, three on the basis of disability. In these six cases, the inconsistencies uncovered by the test results constituted enough to make a sufficient claim under the law to warrant charges. For four of the properties charged, a second follow-up test supported the first test.

The owners of five of the six properties charged agreed to settle the charges. Settlement agreements included: reimbursing the City of Seattle for the cost of testing, providing copies of non-discrimination and reasonable accommodation policies for SOCR review, attending fair housing training and posting fair housing posters as required by City ordinance. The sixth charge remains under investigation by SOCR.

- **Positive but inconclusive:** Twenty properties' test results did show some evidence of discrimination, but not clear enough patterns to warrant director's charges. In some cases, the inconsistencies did not amount to possible illegal discrimination. For some properties, a second follow-up test failed to verify the initial results.

SOCR sent letters to all properties in this category with follow-up phone calls. SOCR discussed the test results, invited the property owner to attend free fair housing training, and offered to set up meetings with SOCR to review their application policies and procedures.

- **Negative:** Twenty-one properties' test results were negative. Most of these properties had fair and equitable policies and procedures for working with prospective renters. SOCR sent letters to all properties in this category commending their staffs for their commitment to fair housing. Tests of several properties classified as negative showed some inconsistencies; SOCR sent the owners of these properties letters offering to review their application policies and procedures, as well as provide fair housing training

Media coverage and public reaction: SOCR released information to the media on October 20, 2011 regarding the fair housing testing program, which resulted in a flurry of media coverage. The Seattle Times, Seattle P-I.com, The Stranger, Seattle Weekly, radio stations KUOW FM, KPLU FM, and KOMO AM, and television channels KOMO, KING, KIRO did stories on the test results. A number of Seattle residents wrote the Mayor's Office to express their shock at the extent of discriminatory practices uncovered by the tests, and to ask the City to commit to more extensive testing on a regular basis.

Partnership with the Residential Housing Association of Puget Sound: SOCR shared the fair housing test results with the Residential Housing Association of Puget Sound (RHA), an organization for residential property managers throughout Puget Sound. RHA worked with SOCR to produce a "best practices" guide for property managers, and shared the document with its membership. SOCR director Julie Nelson appeared twice on an RHA-sponsored radio program to discuss fair housing. RHA also encouraged its members to take advantage of the free training offered by SOCR.

Further actions to promote fair housing

SOCR has used the 2011 fair housing test program and its results to inform our long-term efforts to end discrimination in housing in Seattle.

- **Follow-up with tested properties:** In 2012, SOCR will follow-up with properties that tested "positive but inconclusive," to offer review of their policies and procedures.
- **Revise fair housing training for property managers:** As a member of the Fair Housing Partners of Washington, SOCR co-sponsors free bimonthly fair housing training for property managers and landlords. In 2012, this training is being revised to include a component on the role of implicit bias, unconscious prejudices that result in discriminatory actions, in housing management policies and practices. SOCR is scheduled to give a presentation on implicit bias at the Fair Housing Conference on April 19, 2012.
- **Incorporation into City of Seattle housing policies:** SOCR is working with the City of Seattle Office of Housing to incorporate information from the 2011 tests in the City's "Analysis of Impediments" report to the U.S. Department of Housing and Urban Development (HUD), as well as the City's new Comprehensive Five-Year Housing Plan for Seattle.
- **More education and outreach:** With funding from HUD, SOCR and the King County Office of Civil Rights will conduct fair housing education and outreach with Seattle's immigrant and refugee communities on fair housing laws. The partnership will result in new fair housing materials and community training. Funding also will be used to explore loan products to be utilized in the Muslim community, as well as to conduct fair housing training.

SOCR hopes to conduct fair housing testing on a semi-annual basis, focusing on different protected groups. Ongoing testing will improve enforcement of fair housing laws and build community support for ending housing discrimination.